GOVERNMENT OF INDIA
FINANCE
LOK SABHA

UNSTARRED QUESTION NO:2688
ANSWERED ON:16.03.2007
FOREIGN COMPANIES NOT PAYING TAXES
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Will the Minister of FINANCE be pleased to state:

(a) whether many foreign companies are not paying taxes in India, having full-fledged business operation in the country by declaring `No Direct Presence in the Country, and obtaining `No Permanent Establishment Certificate` (PE) in India;

(b) whether any survey/examination has been conducted by the Income-tax department or by any other agency to identify such global companies;

(c) if so, the details thereof, company-wise;

(d) action taken against guilty companies; and

(e) steps taken by the Union Government in this regard?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI S.S. PALANIMANICKAM)

(a) Under the Double Tax Avoidance Agreements (DTAAs), foreign companies doing business in India are required to pay tax if they are operating through a Permanent Establishment (PE) in India. There have been disputes in a number of cases as to the existence of a permanent establishment in India. However, no certificate of existence or non-existence of PE is issued by the Department. The Reserve bank of India grants permission to the foreign companies to open liaison/representatives offices which are not permitted to do business. Where a liaison office is found to be conducting business, it would be required to pay taxes and the Department takes suitable action whenever any such information comes in its possession.

(b), (c) & (d) Surveys/ examinations are conducted from time to time and the cases in which any violation of domestic law is noticed, action is taken as per the provisions of the law.

(e) The Ministry of Finance, through the office of Director General of Income-tax (International Taxation), is constantly investigating and assessing such cases and suitable action is being taken as per the provisions of the domestic law read with the respective DTAA.